

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTHONY J. ZIMBARDI and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, Pa.

*Docket No. 97-1564; Submitted on the Record;
Issued January 19, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
DAVID S. GERSON

The issue is whether appellant has met his burden of proof in establishing a recurrence of disability after January 5, 1996 is causally related to his accepted August 29, 1994 employment injury or subsequent approved November 1, 1994 revision of left hip replacement surgery.

On August 30, 1994 appellant, then a 59-year-old relay driver, filed a notice of traumatic injury and claim, alleging that he sustained an injury to his left hip while exiting a postal vehicle on August 29, 1994. The Office of Workers' Compensation Programs accepted appellant's claim for contusion of the left hip. Appellant returned to light-duty work on September 2, 1994. Subsequently, the Office approved surgery for revision of appellant's total left hip replacement surgery on November 1, 1994. Appellant filed a claim for wage loss during the period of November 2, 1994 to February 10, 1995 in relation to that surgery which was approved. On January 18, 1996 appellant filed a claim for recurrence of disability beginning January 5, 1996. By decision dated April 11, 1996, the Office denied appellant's claim for recurrence of disability on the grounds that the medical evidence did not establish that the claimed condition was causally related to the accepted employment injury or subsequent surgery.

The Board has duly reviewed the case record on appeal and finds that appellant has not established that he sustained a recurrence of disability beginning January 5, 1996 that was causally related to his accepted employment injury or surgery.

Where appellant claims recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which he claims compensation is causally related to the accepted injury.¹ This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes

¹ *John E. Blount*, 30 ECAB 1374 (1979).

that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.²

In the present case, appellant has not submitted any medical evidence which establishes that his claimed condition after January 5, 1996 was causally related to his accepted employment injury of contusion of the left hip or the revision surgery for his left hip replacement. Appellant submitted a report dated January 12, 1996 by Dr. Norman M. Werther, a Board-certified family practitioner and his treating physician, who indicated that appellant stated he felt he could no longer work and was in severe pain. Dr. Werther therefore believed that appellant was totally disabled. As Dr. Werther did not provide information concerning whether appellant's pain and resultant disability was due to his accepted employment injury and surgery or the natural progression of his underlying disease which caused his initial hip replacement surgery, the Office requested further information. As appellant did not submit any medical evidence in response to this request, the Office properly found that appellant has not established a causal relationship between the claimed recurrence and his accepted employment injury or approved surgery. Appellant has not met his burden of proof.

The decision of the Office of Workers' Compensation Programs dated April 11, 1996 is hereby affirmed.

Dated, Washington, D.C.
January 19, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

David S. Gerson
Member

² *Frances B. Evans*, 32 ECAB 60 (1980).